

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No: 19-cr-251-LM
)	
JOHNATHON IRISH,)	
defendant)	

Objection to Defendant's Motion in Limine to Exclude 404(b) Evidence

On December 11, 2014, defendant Johnathon Irish was convicted of making a material false statement to a federal agent in violation of 18 U.S.C. § 1001 and aiding and abetting the making of a material false statement in connection with the acquisition of a firearm in violation of 18 U.S.C. § 922(a)(6). The defendant signed a plea agreement and stipulated that on or about February 28, 2013, defendant was being interviewed by law enforcement agents, including a special agent from the Federal Bureau of Investigation, concerning the whereabouts of multiple firearms that he owned. The interview was conducted, in part, in furtherance of an ongoing federal investigation into the defendant's firearm activities. During the interview, the federal agent asked the defendant to identify the current location of the defendant's personal firearms. In response to the federal agent's question, the defendant stated that he had sold all of his firearms to a friend named "Tony." At the time, the defendant made the statement, he knew that he had not sold any of those firearms to a friend named "Tony," and in fact knew instead that the firearm had been concealed in a place from which he intended to retrieve them at some point in the near future. The statement was intended to influence the beliefs and investigatory actions of the special agent to whom it was addressed.

Several months later, on September 21, 2013, the defendant drove his girlfriend, hereafter referred to as "S.T.," to Riley's Sport Shop, Inc. of 1575 Hooksett Road in Hooksett, New Hampshire, which is a federally licensed firearms dealer. The defendant identified a firearm that he wished S.T. to purchase for him – specifically, an assault rifle lower receiver – and upon

arriving at Riley's, provided S.T. with the funds to purchase the firearm. While the defendant waited, S.T. filled out the requisite A.T.F. Form 4473 to purchase a Matrix Aerospace Corp. model MA-5 assault rifle lower receiver with serial number 5560179. On that Form 4473, S.T. stated, at the defendant's request, that she was the actual transferee/buyer of the firearm when, in fact, the defendant was the actual transferee/buyer of the firearm. While the defendant was not a prohibited person at the time of the purchase, he had S.T. purchase the firearm for him in order to avoid the background check, and any potential associated delays in receiving the firearm. At the conclusion of the transaction, S.T. paid the money provided to her by the defendant, took possession of the assault rifle lower receiver, and upon exiting Riley's store, immediately handed that lower receiver to the defendant, who subsequently incorporated the lower receiver into a completed assault rifle which he sold approximately two weeks later.

Out of an abundance of caution, the Government included this in its 404(b) notice, but noted in that disclosure that the Government does not intend to introduce evidence of the facts underlying the defendant's prior convictions in its case-in-chief unless defendant has opened the door to that evidence. Should the Government believe defendant has opened the door to this evidence, counsel will ask to approach the bench to discuss it with the Court.

Date: February 5, 2020

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